EXTRALEGAL VIOLENCE

The Ku Klux Klan in the Reconstruction Era

SARAH SULLIVAN

THIS ARTICLE IS A RESPONSE TO THE EQUAL JUSTICE INITIATIVE'S 2015 REPORT ON LYNCHING, WHICH AIMED TO PROVIDE A COMPREHENSIVE ACCOUNT OF RACIAL TERROR SINCE 1877. ALTHOUGH THE STUDY ENCOMPASSED THREE YEARS BEFORE THE COMMONLY USED BEGINNING DATE OF RESEARCH ON LYNCHING, THE AUTHOR ARGUES THAT IT OMITTED A GREAT NUMBER OF CASES FROM THE RECONSTRUCTION ERA (1865-1877). IN THIS ESSAY, SHE EVALUATES TESTIMONIAL EVIDENCE FROM THE 13 VOLUMES OF THE *REPORT OF THE JOINT SELECT COMMITTEE TO INQUIRE INTO THE CONDITION OF AFFAIRS IN THE LATE INSURRECTIONARY STATES* PUBLISHED BY THE U.S. CONGRESS IN 1872, CITING SPECIFIC CASES OF ATROCITIES COMMITTED BY THE KU KLUX KLAN IN THE YEARS FOLLOWING THE CIVIL WAR. A CLOSE EXAMINATION OF THESE REPORTS REVEALS THAT THE LEVEL OF EXTRALEGAL VIOLENCE INFLICTED ON AFRICAN AMERICANS IN THE RECONSTRUCTION ERA HAS BEEN SEVERELY UNDERESTIMATED. RESEARCHERS ARE CALLED TO EXTEND THEIR INVESTIGATIONS OF LYNCHING TO INCLUDE THIS PERIOD OF HISTORY IN ORDER TO DEVELOP A MORE TRUTHFUL ACCOUNT OF RACIAL TERROR IN THIS COUNTRY.

In February 2015, the Equal Justice Initiative proved the underestimation of racial violence with their report, "Lynching in America: Confronting the Legacy of Racial Terror." Historians have attempted to count the number of lynchings since 1882, when *The Chicago Tribune* began publishing an annual list of lynchings. In 1995, sociologists Stewart Tolnay and E. M. Beck compiled what was considered to be the final inventory of lynchings in the country. The Equal Justice Initiative's expansive research resulted in the finding of 3,959 victims in twelve southern states from 1877 to 1950. More importantly, the Equal Justice Initiative reported seven hundred names that have not been recorded on prior lists.[1] Clearly, the scale of this crime is a misunderstood aspect of our nation's history that historians have failed to properly evaluate; ignoring the true scope of lynching prevents us from fully understanding past and current race relations and the justice system.[2]

The Equal Justice Initiative claims their report is necessary in addressing America's legacy of racial terror in order to achieve racial justice.[3] Yet, their research begins with the year 1877—three years before the commonly accepted beginning date of lynching research. Between 1865 and 1877 of the Reconstruction era, many victims of lynching are omitted from the Equal Justice Initiative's report. In order to continue to work toward a more truthful narrative of our nation's history of lynching and racial terror, the Reconstruction era must be fully analyzed and researched. If historians can meticulously scrutinize Reconstruction violence, "Lynching in America: Confronting the Legacy of Racial Terror" will need to be updated.

RUINS OF ST JOHN ST FINBAR IN CHARLESTON, SOUTH CAROLINA 1865 (COURTESY OF *WIKIMEDIA COMMONS*)

At the end of the Civil War, southern whites realized their lives would never be the same. Historian Eric Foner characterizes whites as having expectations of being "treated with the same deference that they were accustomed to" before the war.[4] They feared encroachment in the economic, political, and social realms. Organizations such as the Ku Klux Klan were established, which facilitated acts of violence for the purposes of defiance, self-preservation, and reestablishment of white supremacy.[5] Historian Alan Trelease describes violence ranging from "individual assaults and minor street encounters through mob lynchings to pitched battles involving hundreds on either side."[6] Much of the violence committed by the Ku Klux Klan was considered punishment for black criminality. Crimes, whether real or imagined, demanded vengeance, said Klansmen. Expounding on the notion of extralegal violence, Trelease explains the community consensus, noting that killing blacks was "simply not a punishable offense."[7]

Historian W. Fitzhugh Brundage considers lynching to be one of the least understood forms of lawlessness.[8] Scholars, the National Association for the Advancement of Colored People (NAACP), anti-lynching organizations, and politicians all defined lynching differently. Historians, however, have used the conditions agreed upon at the 1940 summit conference for their investigations on lynching before and after 1940. The conference was a result of controversy surrounding antilynching activist Jessie Daniel Ames's campaign for a lynch-free year.[9] The NAACP also sought to campaign against lynchings, but its approach contrasted with those of Ames and the Tuskegee Institute. The NAACP wanted to count a broader range of deaths as lynchings, focusing on lynching as a symbol of the wider issue of white racism. If lynching was narrowly defined as a particular type of murder, the NAACP contended that a lynch-free year would not necessarily mean a year free of "prejudice, brutality, and violence."[10] Using the Tuskegee Institute's more narrow definition, Jessie Ames declared a lynch-free year from May 1939 to May 1940. The NAACP disagreed, claiming Tuskegee's definition of lynching omitted secret assassinations or killings by law enforcement officers.[11] In order to resolve the controversy, the NAACP and Tuskegee agreed to a 1940 summit conference that decided that "there must be legal evidence that a person has been killed, and that he met his death il-

legally at the hands of a group acting under the pretext of service to justice, race or tradition," in order to classify a murder as a lynching.[12]

Brundage also considers the common elements of lynchings. He claims mobs executed their victims without proof of guilt and believes the lynching of blacks was intended to "enforce social conformity and punish individuals." Brundage asserts that all lynchings have a degree of community approval and complicity, whether it is "expressed in popular acclaim for the mob's actions or in the failure of law officers to prosecute lynchers."[13]

Meanwhile, Christopher Waldrep connects lynching to the Ku Klux Klan. He argues that "Ku Klux" is synonymous with lynch law and that "Klansmen designed their killings to look like lynchings, hoping to win community support by making it look like they already had it."[14] While modern historians have denounced the Ku Klux Klan as lynchers, "the implications of the powerful language [lynching] used to label the Klan have yet to be explored."[15]

This paper will investigate the link between lynching and the murders committed by the Ku Klux Klan and vigilante groups during the Reconstruction Era. It will not redefine the act of lynching; rather, it will seek to further explore and broaden established qualifications. It will not argue that all murders committed during the Reconstruction era can be classified as lynchings, although there was a class of murders that were extralegal in purpose. Through exploiting claims of alleged black criminality, murderers saw violence as an application of justice. Using the conditions from the 1940 summit conference, the murders committed by the Ku Klux Klan and other vigilante groups suggest that lynching's prevalence precedes the commonly accepted date of 1880. With this essay's examination, it is clear how black progress became a matter of life and death.

The transcripts of the KKK hearings pose challenges to the historian. It is important to note that those testifying could commit perjury. In addition, it is critical to account for the political bias within the questioning and answering. Obviously, the historian can only read a transcript of the account and thus lacks the ability to see body language or hear tone. The background noise and chatter that could have affected the line of questioning or the words of a testimony are lost. The historian must also consider witness intimidation taking place outside of the hearings and at the hands of the Democratic representatives tasked with questioning. These Democrats may have even had Klan connections, instilling an extra level of fear in their witnesses. In analyzing a primary source, especially these KKK hearings, one must account for the unwritten and the unsaid. Only through bias-conscious analysis can one truly understand these reports.

During the Reconstruction, southern white Democrats criticized the inefficiency of the government and the justice system. This criticism helped to promote the belief that extralegal measures were necessary to punish alleged black crime. The government was perceived as corrupt and illegitimate. Whites believed there was no true government and that power was in the hands of the carpetbagger and the scalawag who were both "using the former slave as an instrument."[16]Additionally, whites believed that judges were politically motivated and that Republican governors would pardon black criminals. The Ku Klux Klan believed laws and punishments for particular crimes were ineffective. If blacks were guilty of petty crimes, such as theft, the punishment was viewed as too insignificant to deter future crimes. Therefore, the Ku Klux Klan took responsibility for implementing justice through their violent attacks, typically telling their victims the reasons they or their family members were being confronted with. The Klan felt it needed to ensure that victims knew they were being punished for their alleged crimes against society and violations of the law.[17] A prosecutor against the Klan, G. Wiley Wells, believed the most significant aspect of the Ku Klux Klan was its method of convincing the community that the person outraged "was guilty of crimes, was a terrible enemy to society, and that, in fact, it was a justice to society that the party was killed."[18]

Theft was a common crime for which the Klan murdered alleged offenders. The white community's collective anger with black thievery can be traced back to the antebellum South, when theft was a method of slave resistance. White owners punished slaves for stealing by whipping, branding, and hanging. After the Civil War, whites feared that blacks operated on the belief that what belonged to their former masters also belonged to them. Nedon L. Angier, Treasurer of Georgia, believed that the majority of violence committed by the Ku Klux Klan was in punishment for black stealing and pilfering. Angier claimed blacks were "very much addicted to stealing" and in effect, he could "hardly keep garden tools or chickens about [his] lot."[19] William W. Humphries Jr. of Mississippi testified to the amount of theft taking place in his neighborhood. While

"The confiscation of white property threatened the same white power structure as alleged black thievery. Like lynchers, the Ku Klux Klan acted under the pretext of service to justice, race, and tradition."

he claimed to have no knowledge of any Ku Klux Klan outrages, his tirade clearly represents the motive behind certain Klan violence. Humphries Jr. was alarmed by the theft and hyperbolically claimed, "all the hogs in the country are being killed and stolen, cattle are being stolen and killed up, and I might say that the country is without stock."[20] Humphries Jr. alleged that blacks were responsible for the thievery but purposely did not steal more than twenty-five dollars worth of property so they could not be sent to the penitentiary for petty larceny. While he assumed that a recent pattern of fewer thefts was due to better schools for black children, it was more likely that it was attributable to the Klan's violence and intimidation. Nevertheless, his statements reflected the belief that alternative approaches were more successful in controlling and curbing illegal conduct than the justice system.

While the Ku Klux Klan primarily punished thieves by whipping, some were murdered. Hampton L. Jarnagin offered an example of such a murder when he testified about a man who was "found dead in the Tombigbee River."[21] The unnamed man had already admitted to stealing C.W. Moore's horse. He was sentenced to prison, but was removed from jail and killed before he could serve his sentence. The Klan either distrusted the justice system or believed a harsher sentence should have been imposed upon the alleged criminal. Clearly, Jarnagin's example of murder portrays the Klan as imposing extralegal "justice." Additionally, the murder represented the protection of white tradition. Whites supported President Andrew Johnson's effective rejection of the promise of "forty acres and a mule." The confiscation of white property threatened the same white power structure as alleged black thievery. Like lynchers, the Ku Klux Klan acted under the pretext of service to justice, race, and tradition.

Moreover, arson posed a more severe threat to white property than thievery. Typical accusations posed by the Ku Klux Klan included blacks burning houses, barns, ginhouses, and sawmills. Even though the Klan itself was guilty of arsons, especially of schoolhouses and churches, the act was seen as a crime only when committed by blacks. Unsurprisingly, the Klan also tended to sensationalize the threat of arson. Whites reasoned that setting fire to property was merely the first action toward burning entire communities. Joseph Herndon of South Carolina acknowledged fires in his county but pointed to white fears of the town being "laid in ashes."[22] Herndon also connected the burnings to Loyal League meetings, believing that the speeches at these meetings encouraged blacks to be more insolent. He criticized the governor for being "very liberal" in pardoning criminals, claiming his actions left the whites feeling insecure. Herndon eventually revealed the shooting of Anderson Brown by the Ku Klux Klan. Brown was said to be the "principal man" of the party responsible for arson.[23]

Blacks were not the only victims of the Klan's extrajudicial targeting, as the Klan was also willing to punish white men who were connected to alleged black crimes. Robert W. Shand testified to the murder of a white man named Owens, a "dangerous" man who was guilty of "organizing negroes."[24] Owens was murdered by the Klan because of a note, allegedly in his handwriting, threatening to burn the house of Dr. Wade Fowler, although Shand could not recall any proof that it was Owens's handwriting. It is possible that Owens was a target and posed a threat to the Klan, and that the Klan would use any excuse to eliminate him.

As lynching typically represented supposed dissatisfaction with the inefficiency or incompetence of the justice system, it is logical that many of those whom the Ku Klux Klan murdered for arson had already been indicted or convicted of a crime. Dr. Pride Jones of North Carolina spoke of barn burnings and implied that only the Klan had the ability to "prevent the further commission of crime."[25] Jones alleged that it was particularly difficult to try men for offenses such as arson in the courts. He cited five hangings in the county; three of the five were for barn burnings, and two of the parties who were hanged had already been arrested for the crime. Jones also mentioned a common ritual of the Klan: the attachment of notes to those who

were hanged, including messages such as, "you are hung for barn burning."[26] In his opinion, the sole purpose of the Klan was preventing crime and protecting whites, similar to the purpose of lynchers.

H.D.D. Twiggs, a judge from Georgia, spoke of two other murders in which blacks had already been arrested for the alleged crime of arson. He first mentioned the murder of a black man who was charged with the burning of a gin house and a mill and was in jail awaiting his trial.[27] The second murder Twiggs testified to was the killing of a man from a Sandserville jail who had been tried before a preliminary court for "arson in the night-time."[28] The Klan shot the man and his body was found lying in a pond. In both of these cases, the Ku Klux Klan was able to obtain keys from jailers with little difficulty because they were unable to resist. Klansmen acquiring keys from jailers represents the literal taking of justice into their own hands. The Klan's punishment of blacks for alleged arson was hypocritical, as evidence proves whites were equally guilty of arson. The overarching fear of a burned down town was associated only with arsons related to blacks. If a black man allegedly set fire to a gin-house, it was believed he would stop at nothing to burn the town. But, if a white man set fire to a church, it was seen as an act of justice. Like lynchers, the Klan reinforced and manipulated innate racism to justify their violence. While the Ku Klux Klan acted under pretext of tradition and justice when murdering for alleged arson, they primarily acted under a pretext of racial prejudice.

Similar to later lynchings, many of the Ku Klux Klan's victims had violated the region's racial codes by having relationships across the color line. Whites believed the purity of their race was at risk. Charles L. Stickney of Alabama argued that black women do not have "an appreciation of virtue that white persons have."[29] Additionally, Nedon L. Angier testified saying, "Negroes have not been rightly trained morally."[30] These two testimonies reflected a rampant fear of miscegenation. In his testimony, William Coleman mentioned the killing of Allen Bird, who was accused of "keeping a white girl."[31] Klansmen visited Bird in jail, beat him to death, and "shot a hole you could job your fist through."[32] Joseph Herndon of South Carolina testified of a man who was shot on the steps of his home for "living in adultery with two old maids -- two white women."[33] Jasper Carter offered another example when he confirmed the murder of John Walthall. He carefully described the intricate torture that the Klan inflicted upon Walthall and his wife. Over the course of the attack, the Klansmen beat their heads together, and Walthall was whipped three hundred times. Walthall, according to the Klan, was "always running after white women."[34] During the attack, the Klan questioned when he was going to "sleep with another white woman."[35]

Black male victims were not the only ones who suffered from Klan violence in the punishment of interracial relations. Henry Lowther testified to the murder of Mat Deason, a white sheriff elected by the Republican Party who had a black woman for a wife. Deason was found with "five bullet-holes in his forehead" and the "back of his head was mashed in with a club."[36] In addition, a black woman was killed, but Lowther's testimony is unclear if this black woman was Deason's wife. The sheriff, who was supposed to be an administrator of justice, was guilty of a severe societal transgression in the eyes of the Klan. White men could have intercourse with black women, but to marry or to live as husband and wife was against the code. Like lynchers, the Klan used its extralegal measures to maintain a racial hierarchy by ensuring the white race remained superior.

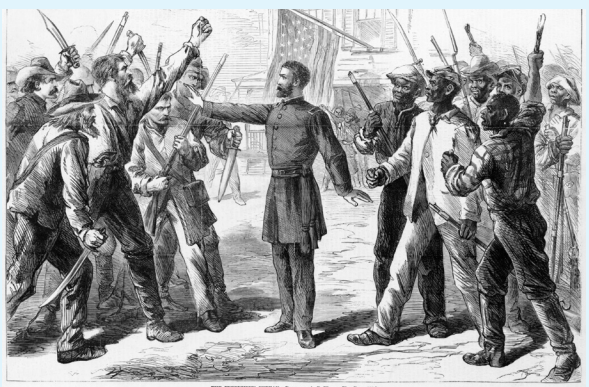
It's important to note that the Klan was not consistent in its behavior, as racist-sexual etiquette only went one way. For example, Edward E. Holman and others testified about the murder of Solomon Triplett. Triplett's former master, Jack Triplett, had children by Solomon's wife. Jack Triplett "had an old grudge" against Solomon and his murder was Triplett's way of "settling it."[37] Holman also believed that the murder had to do with "putting him [Solomon] out of the way."[38] In this case, the black man was not guilty of interracial relations. Rather, the white man had relations

FREEDMEN'S SCHOOLHOUSE BURNS IN THE 1866 MEMPHIS RIOT (COURTESY OF *WIKIMEDIA COMMONS*)

with a black woman. The Klan, however, disregarded any notion of crime and left the white man untouched. Again, the Klan's actions are identical to those of lynchers, as they acted under pretext of tradition. During the time of slavery, it was common for white owners to have slave mistresses and to have children by them. Attempting to maintain an antebellum way of life was a driving motive of the Klan.

A more serious offense than interracial relations was rape, as an attack on white womanhood was also an attack on white manhood. Many black men lynched by the Ku Klux Klan were accused of raping or attempting to rape a white woman. Attacking a white man's wife or daughter was emasculating and deemed a capital crime. Nathan Bedford Forest, believed to be the first grand wizard of the Klan, cited rape as one of the main reasons that the KKK formed.[39] Thomas M. Allen testified to the murder of a black man in Madison. He believed the man was murdered because he had attempted to rape a white girl. Additionally, Allen claimed that being sentenced to jail made it easier for the Klan to attack its victims, as "they would just go there and demand the keys from the jailer, and take him out and kill him."[40]

Whites persistently contended that these rapes would continue if justice was not instituted.[41] The Ku Klux Klan chose to be the bearers of "justice." In 1868, the Fayetteville Observer reported the lynching of an alleged black rapist. The newspaper described the lynching as "just and right."[42] Additionally, it was reported that it was not known who committed the act, "whether the Ku Klux or the immediate neighbors, but we feel that they were only the instruments of Divine vengeance in carrying out His holy and immutable decrees."[43] John C. Norris told of one murder he had heard of because of an alleged rape. In 1866, a black man was accused of raping a sixteen-year-old white girl. The Ku Klux Klan tied the accused man to a stake and burned him to death before a thousand people, by Norris's estimates.[44] Not only did these murders by the Ku Klux Klan act under the pretext of justice, but they also acted without proof of guilt and with a degree of community support. The Klan used those accused of rape as scapegoats for wider proclamations of proven rape, stirring up fear in the community. The aforementioned murder is similar to lynchings of later years, referred to as spectacle lynchings. Sociologists Stewart Tolnay and E.M. Beck stated that spectacle lynchings involved "large crowds of white people, often numbering in the thousands" witnessing "pre-planned heinous killings that featured prolonged torture, mutilation, dismemberment, and/or burning of the victim."[45] Murders committed by the Ku Klux Klan for alleged rape included similar, and in some cases identical, characteristics of later lynchings.



A CARTOON OF FREEDMAN BUREAU HARPERS (COURTESY OF *WIKIMEDIA COMMONS*)

The Ku Klux Klan also targeted blacks who threatened or attacked whites. Fears of a black uprising and of slave revolts existed in the antebellum South and even after the end of the Civil War, even though historian Eric Foner proves there were very few instances in which blacks attacked whites during those times.[46] Norris recalled the murder of Will Culver, who was shot to death because of an alleged incident between himself and a white man soon after the end of the war. Culver reportedly cut the white man across the face and was told that he would be killed "if he ever came back there."[47] Fines H. Little provides another example of murder for assault. Little discussed the murder of Joseph and Willis Flint. The Flints had originally been arrested for "an assault upon three white men" concerning the division of a corn crop.[48] One white man received a flesh wound on his shoulder. It was not likely the flesh wound that provoked the murder, rather the notion of assault on a white man.

Another act of Klan violence involved a man named Luke. Peter M. Dox testified to the killing of Luke because he had "instigated the negroes."[49]Whites feared that Luke's influence would cause blacks to "destroy their town [Cross Plains] and slaughter the people."[50] Dox claimed vigilantes executed Luke to appease those who did not want to wait for "the slow process of the law."[51] The Ku Klux Klan perpetuated white perception of minor infractions as threats on their lives and acted as if they had no choice but to murder in the name of justice. Whites claimed they had an in-

efficient justice system in which it was impossible for blacks to be properly punished and threatened. Klansmen, like lynchers, used their murders to set a precedent for justice if a black were to assault a white.

Murders by the Klan for crimes of insolence are among the most shocking. Blacks who expressed their newly won rights and autonomy were simultaneously risking their lives. John C. Norris, who also testified to the aforementioned murder of Will Culver, testified to the murder of two black brothers. Norris could not provide any specific reason for their murder other than being "very bad negroes"[52] and further defined this as blacks who "contended for their rights and were not much afraid."[53] Being "very bad" does not necessarily mean a crime has been committed, but it seems that this status was a crime in and of itself in the Klan's opinion. John M. Church divulged his known information of the murders of Dave Starrett, Lew McMillian, and Isaac Payne by stating that the three black men were publically shot and killed in the streets of Clarkesville. He claimed at least one man was killed because he had been drinking and "cutting up some there."[54]

Insolence was a broad term to classify black behavior that whites deemed unacceptable. Jefferson Falkner of Alabama argued that the mission of the Ku Klux Klan was "to get at persons who had been guilty of flagrant violations of law and public morals, especially where colored men had insulted white ladies."[55] He cited one example of the murder of a black man, implying the reason as being insolent to a white woman. Thomas M. Graham offered an example of a man killed in his home for being a "bad man."[56] This phrase was used to describe a black man who lived on a public road, had liquor, and was always surrounded by other blacks. Graham explained that the law would not adequately punish for offenses, such as vagrancy or liquor, which necessitated the extralegal measures taken by the Ku Klux Klan. Freedmen's Bureau assistant commissioner, Thomas W. Conway, offered an accurate portrayal of vagrancy, stating, "A poor white man is deemed industrious till proved a vagrant; a poor black man is deemed a vagrant until proved industrious."[57] The prevalence of poor black men likely means many were accused of and suffered the consequences of vagrancy.

It is difficult to understand how acts of insolence became crimes against the law. Mack Tinker identified the murders of Mike Dunn and Isham Ezell. Whereas the former was murdered because he "talked too much" and effectively threatened the Ku Klux Klan,[58] the latter was murdered because of "a woman he took down" and for "cursing the white people."[59] An Alabama overseer shot his black worker through the heart because the black man "gave him sarse [sic]."[60] The Texas Freedmen's Bureau recorded the reasons for some of the one thousand murders of blacks by whites between 1865 and 1868. Reasons included not removing one's hat, refusal to give up a whiskey flask, and using insolent language.[61] An examination of alleged black insolence proves whites found any excuse to denounce blacks. In effect, the Ku Klux Klan used any reason to punish a black man or woman. As in later lynchings, whites of the Reconstruction era used murder as the extreme method of preventing and rejecting black progress and civil rights.

Not all murders committed by the Ku Klux Klan were lynchings. A majority of killings were strictly political in nature. For example, the murder of Jack Dupree, a president of a Republican club, was for a political purpose.[62] Testimony states that Dupree had no other crimes charged against him besides being boisterous. Yet, even political assassinations could be linked to crimes: South Carolina Republican state senator Benjamin Franklin Randolph was assassinated, and an attack on Randolph was an attack on black suffrage, black schooling, and black autonomy. Randolph was "charged" with crimes of "misleading Negroes, alienating the two races, and advocating for social equality."[63] It seems that being a Republican or advocating for radical policies was just as criminal as a black man refusing to yield the street to a white man.

Like many lynchers, the Ku Klux Klan was mostly able to elude legal justice. The inability to prosecute stemmed from community support for the Klan, Klan intimidation tactics, and the inherent secrecy within the Klan. With beliefs that criminal law in the country was not executed to the best of its ability and that too many people escaped punishment, whites saw organized vigilante justice as indispensable. The Klan represented the expeditious fix that whites yearned for, using extralegal methods of violence to properly implement "justice." In his testimony, B.F. Tidwell of Florida implied that the community approved of Klan violence so long as parties were accused of crimes.[64] From what he understood, whites complained of "no law" and "no protection to their property" but chose to not invoke lawful ways to seek solutions.

The community was not only pleased with extralegal justice, but with the negative effects the Klan's violence had on blacks in the economic, political, and social spheres.

"With beliefs that criminal law in the country was not executed to the best of its ability and that too many people escaped punishment, whites saw organized vigilante justice as indispensable."

Whites supported Ku Klux Klan efforts in controlling black labor. For example, blacks were less likely to disrespect their white employers if there were looming fears of Klan retaliation. Southern white Democrats were not likely to seek prosecution of the Klan, as they benefited from the Klan's results and effects. The Klan forcibly prevented and intimidated blacks from voting for the Republican Party. Votes not cast for the Republican Party were indirectly votes cast for the Democratic Party. Seeking a return to antebellum normalcy, whites supported any means, including Klan violence, of overturning the decisions of Radical Reconstruction. Whites supported any actions that resulted in less "provocative" behavior among blacks and that taught blacks their place. While blacks had won their freedom, it was difficult to express their newfound rights if it meant meeting death. There was simply no legal protection against the Klan.[65]

Through their violence, the Ku Klux Klan was able to intimidate not only their victims, but also their communities. Fear of Klan retaliation was a deciding factor in reporting outrages. When studying statistics involving Ku Klux Klan violence, it is necessary to note that many outrages went unreported. In cases of murder, victims could not testify for themselves and reporting relied on hearsay and witnesses. A Webster Shaffer cites a pertinent example of a man who refused to provide his statement because his name would be associated with an accusation of the Klan's whipping. Before he learned that his name would be mentioned in the report, he was willing to swear to the Klan's illegality. Once he learned his name would be used, he feared that the Klan would "burn him out," a customary Klan reaction to those who attempted to bring them to justice.[66] Trembling and frightened, he stated to Shaffer, "there were one hundred men that were whipped and mutilated and burned who did not report, to one who did."[67] Klan members continued to evade justice in the Joint Select Committee's hearings. William L. Saunders, Ku Klux Klan chief organizer, refused to answer any questions or acknowledge the existence of the Klan to avoid incriminating himself.[68]

Klansmen went to great lengths to protect their identities. Costumes not only provoked terror, but also provided secrecy. Costumes typically included gowns and headpieces with matching disguises for their horses. Costumes could also include cheap facial cloth or animal horns, ears, and tails.[69] Andrew Cathcart testified to his experience during a Klan attack, recalling "every time I would look him in the face, he would slap me."[70] If victims survived the attack, they would be more likely to report the outrage if they were able to positively identify their attackers. Even with name identification, it was difficult for accusations against a Klan member to hold up in court. During Cathcart's testimony, Democratic representative Van Trump argued that knowledge of "shape and make" was not enough to prove guilt.[71] Additionally, Van Trump contended that tempers, voices, and dress were also inaccurate methods of assigning guilt.

Southern Democratic congressmen helped Klansmen dodge prosecution. In the Joint Select Committee's investigation, questioners were relentless in repeating similar or exact questions in the hearings. If there was even a slight inconsistency in the answers, the questioner would effectively repudiate the validity of the witness. Democrats also attempted to uncover political bias and/or party allegiances of those testifying. Van Trump questioned Spencer Snoddy, for example, about his political background and his history of "making speeches," likely for a Union League or other Republican coalition.[72] If a questioner could convince the committee that the testimony was fabricated for a political purpose, their statements would be disregarded.

When examining the reasons victims faced the Klan's wrath and the methods whites used to defend the Klan's actions, a pattern of extralegal violence emerges. The evidence proves that a certain sect of murders committed by the Ku Klux Klan during Reconstruction do, in fact, fit the 1940 definition of lynching. Some lynchings acted under the pretext of justice, others race, and some tradition.

More importantly, many lynchings done by the Ku Klux Klan acted of the pretext of all three.

Yet, lynchers did not view themselves as criminals. Lynching reflected a "corrupt popular will."[73] Extralegal violence was seen as appropriate and necessary: it was deemed a right of the American people to combat an allegedly inept criminal justice system.[74] Lynchers used public support to elude prosecution. Christopher Waldrep, a scholarly expert on lynching, contends that community support is necessary to classify murders as lynchings. Waldrep does not define the Ku Klux Klan as a lynching organization, arguing that this classification depends on the level of white southern approval for extralegal violence. On the other hand, Waldrep does not argue that Klan killings were not lynchings: "Testimonies by the victims of Klan violence confirm its lynch-like character."[75]

W. Fitzhugh Brundage classifies four categories of lynch mobs based on size, organization, motivation, and extent of ritual. Lynch mobs are classified as terrorist mobs, private mobs, posses, and mass mobs. While specific Klan lynchings could be the work of posses and terrorist mobs, the majority of violence would have been enacted by private mobs and mass mobs. Lynchings done by posses were typically "public events that had the power to fuse entire communities," unlike the secretive and night activities of the Klan.[76] Terrorist mobs were secretive and defended "traditional codes of morality," similar to the Klan.[77] On the other hand, terrorist mobs were typically condemned and prosecuted, contrasting with the community's reaction to the Klan.

Klansmen can be defined as private mobs. Private mobs enacted "private vengeance" for alleged criminal offenses and were adorned in costumes or disguises to uphold their clandestine nature.[78] They typically victimized those who had been charged with a crime but had not been yet punished by the community, especially those who were already in jail. Klansmen also encompass the qualities of mass mobs. Mass mobs were made up of hundreds who acted with local approval and "didactic aims" in their lynchings.[79] Many of the lynchings done by mass mobs included mutilation, hanging, and burning. The Klan was most similar to mass mobs in their effect of "creating a climate in which other lynchings could seem legitimate."[80] The Ku Klux Klan started the pattern of lynching that existed throughout Reconstruction and our country's later years.

Justifications for the Ku Klux Klan's extralegal violence parallel justifications for lynching. Most importantly, justification was centered on a belief that the Radical government did not provide a system to prevent and punish black criminality. Southern whites wished for the Klan to succeed in keeping blacks submissive and working. Southern whites were frightened by the possibility of racial equality and miscegenation. In their minds, society was literally black and white. Whites saw Reconstruction and black progress as apocalyptic and a degradation of the white race.[81] A Mobile newspaper editor seethed "Whenever you determine that your ignorant, brutal, filthy, and licentious negro, has a right to obtrude into white people's houses, in their church pews, theatre boxes, &c., you make an issue of instant life or death."[82] The Klan was referred to as "regulators" of law and was praised for intervening to punish alleged offenders.[83] Others believed the Klan should not be prosecuted, as it was the Klan, not the justice system, that maintained law and order. Reuben O. Reynolds of Mississippi claimed that common opinion was in favor of lynch law for any man who had committed a crime. Reynolds further stated that "it is not only reasonable, but probable," that men should assemble for the specific purpose of lynching.[84] The Klan also claimed to be philanthropic in nature, helping impoverished Confederate widows and orphans, which helped gain support in the white community.[85]

It is likely that community support for lynchings depended on the locality, ratio of blacks to whites, and the efficiency of the local government. The 1940 summit conference did not include community support as one of its qualifications for the classification of a murder as a lynching. Instead, the condition states that murders must have acted under pretext of service to justice, race, or tradition. Clearly, mur-

"New perspectives on lynching may draw new conclusions regarding segregation, the Civil Rights struggle, and race issues facing the nation now."

ders committed by the Ku Klux Klan for extralegal purposes fall under the pretext of justice, race, and tradition. The Klan did not lack community support, but it is difficult to generalize the exact level of support that the organization had throughout the entire country. Hon. WM. W. Paine of Georgia claims that his community accepted the Klan's lynch law as it was done for the "purpose of having such depredations [alleged crimes] stopped."[86] During the Memphis riots of 1866, the community believed that murder and savagery were justified in the name of white civilization. There was little possibility of any public opinion that argued against the bloodshed of blacks.[87]

Bryan Stevenson, the executive director of the Equal Justice Initiative, believes that our country has not yet "confronted the legacy of our history in a meaningful way."[88] If the end of the Civil War unleashed such an "unprecedented wave of extralegal violence," then why is the Reconstruction era continuously omitted from lynching reports and studies?[89] There is no doubting lynching's prevalence during the Reconstruction era; 1880 should no longer be the date that historians begin their research on lynching. By omitting such an influential era in recording our history, we are not only doing an injustice to the victims of Klan lynchings, but also an injustice to the study of history.

The Ku Klux Klan represents an embarrassing and painful time for our nation and therefore, the organization must be truthfully and accurately represented. The better we understand history, the better we understand the present. New perspectives on lynching may draw new conclusions regarding segregation, the Civil Rights struggle, and race issues facing the nation now. Remembering that lynching represents extralegal "justice," a better understanding of lynching's scope and history could prove helpful for searching for solutions to the fragmented and imbalanced criminal justice system. The Equal Justice Initiative's report on lynching mentions support for memorials. The Equal Justice Initiative contends that "public acknowledgement and commemoration of mass violence is essential not only for victims and survivors, but also for perpetrators and bystanders who suffer from trauma and damage related to their participation in systematic violence and dehumanization."[90] Acknowledging our history is the best mechanism for ensuring that our nation's mistakes do not repeat themselves.

ENDNOTES

1. Campbell Robertson, "History of Lynchings in the South Documents Nearly 4,000 Names," The New York Times, February 10, 2015, accessed November 17, 2015, http://www.nythimes.com/2015/02/10/us/history-of-lynchings-in-the-south-documents-nearly-4000-names.tml.
2. Equal Justice Initiative, "Lynching in America: Confronting the Legacy of Racial Terror," 3. http://www.eji.org/files/EJI%20Lynching%20in%20America%20SUMMARY.pdf.
3. Ibid., ii.
4. Eric Foner, *Reconstruction: America's Unfinished Revolution*, 1863-1877 (New York: Harper Perennial, 2014), 120.
5. Giles Vandal, "The Policy of Violence in Caddo Parish, 1865-1884," *Louisiana History: The Journal of the Louisiana Historical Association* 32, no. 2 (1991): 159.
6. Alan Trelease, *White Terror: The Ku Klux Klan Conspiracy and Southern Reconstruction* (Baton Rouge: Louisiana State University Press, 1995), xliii.
7. Ibid.
8. W. Fitzhugh Brundage, *Lynching in the New South: Georgia and Virginia*, 1880-1930 (Urbana: University of Illinois Press, 1993), 1.
9. Christopher Waldrep, *The Many Faces of Judge Lynch: Extralegal Violence and Punishment in America* (New York: Palgrave Macmillan, 2002), 127.
10. Waldrep, *The Many Faces of Judge Lynch*, 137.
11. Ibid,. 38.
12. Brundage, *Lynching in the New South*, 1.
13. Ibid,. 18.
14. Waldrep, *The Many Faces of Judge Lynch*, 73.
15. Ibid,. 67.
16. Ray Granade, "Violence: An Instrument of Policy in Reconstruction Alabama," *Alabama Historical Quarterly* 30, no 3. (1968): 185.
17. Hannah Rosen, *Terror in the Heart of Freedom: Citizenship, Sexual Violence, and the Meaning of Race in the Postemancipation South* (Chapel Hill: The University of North Carolina Press, 2009), 1.
18. Ibid,. 196.
19. The research in this paper relies upon the 13 volumes of the Report of the Joint Select Committee to Inquire into the Condition of Affairs in the Late Insurrectionary States (Washington: Government Printing Office, 1872), hereafter cited as Joint Select Committee. Joint Select Committee, Georgia, 172.
20. Joint Select Committee, Mississippi, 1046.
21. Joint Select Committee, Mississippi, 518.
22. Joint Select Committee, South Carolina, 207.
23. Joint Select Committee, South Carolina, 210.
24. Joint Select Committee, South Carolina, 975.
25. Joint Select Committee, North Carolina, 3.
26. Ibid.
27. Joint Select Committee, Georgia, 1043.
28. Joint Select Committee, Georgia, 1044.
29. Joint Select Committee, Alabama, 1525.
30. Joint Select Committee, Georgia, 172.

31. Joint Select Committee, Mississippi, 486.
32. Ibid.
33. Joint Select Committee, South Carolina, 212.
34. Joint Select Committee, Georgia, 474.
35. Ibid.
36. Joint Select Committee, Georgia, 359.
37. Joint Select Committee, Mississippi, 347.
38. Ibid.
39. Rosen, Terror in the Heart of Freedom, 197.
40. Joint Select Committee, Georgia, 609.
41. Rosen, Terror in the Heart of Freedom, 195.
42. Trelease, White Terror, xxi.
43. Ibid.
44. Joint Select Committee, Georgia, 193.
45. Mark Berman, "Even More Black People Were Lynched in the U.S. than Previously Thought, Study Finds," *The Washington Post* February 10, 2015, accessed November 17, 2015, https://www.washingtonpost.com/news/post-nation/wp/2015/02/10/even-more-black-people-were-lynched-in-the-u-s-than-previously-thought-study-finds/.
46. Foner, *Reconstruction: America's Unfinished Revolution*, 1863-1877, 121.
47. Joint Select Committee, Georgia, 206.
48. Joint Select Committee, Mississippi, 359.
49. Joint Select Committee, Alabama, 429.
50. Ibid.
51. Ibid.
52. Joint Select Committee, Georgia, 211.
53. Ibid.
54. Joint Select Committee, Georgia, 485.
55. Joint Select Committee, Alabama, 1121.
56. Joint Select Committee, South Carolina, 701.
57. George Rable, *But There Was No Peace: The Role of Reconstruction Violence in the Politics of Reconstruction* (Athens: University of Georgia Press, 2007), 45.
58. Joint Select Committee, Alabama, 1361.
59. Ibid.
60. Foner, *Reconstruction: America's Unfinished Revolution*, 1863-1877, 120.
61. Ibid.
62. Joint Select Committee, Mississippi, 270.
63. Rable, *But There Was No Peace*, 73.
64. Joint Select Committee, Florida, 115.
65. Trelease, *White Terror*, 31.
66. Joint Select Committee, North Carolina, 39.
67. Ibid.
68. Joint Select Committee, North Carolina, 354.
69. Elaine Frantz Parsons, "Midnight Rangers: Costume and Performance in the Reconstruction-Era Ku Klux Klan," *Journal of American History* 92, no. 3 (2005).
70. Joint Select Committee, South Carolina, 1591.
71. Joint Select Committee, South Carolina, 1594.
72. Joint Select Committee, South Carolina, 680.
73. Waldrep, *The Many Faces of Judge Lynch*, 11.
74. Ibid.
75. Ibid., 73.
76. Brundage, *Lynching in the New South*, 33.
77. Ibid., 20.
78. Ibid., 28.
79. Ibid., 39.
80. Ibid,. 44.
81. Rable, *But There Was No Peace*, 64.
82. Ibid,. 63.
83. Joint Select Committee, Georgia, 191.
84. Joint Select Committee, Mississippi, 913.
85. Trelease, *White Terror*, 36.
86. Joint Select Committee, Georgia, 192.
87. Rable, *But There Was No Peace*, 41.
88. Berman, "Even More Black People Were Lynched in the U.S. than Previously Thought, Study Finds."
89. Brundage, *Lynching in the New South*, 6.
90. Equal Justice Initiative, "Lynching in America: Confronting the Legacy of Racial Terror," 23.

REFERENCES

Berman, Mark. "Even More Black People Were Lynched in the U.S. than Previously Thought, Study Finds." *The Washington Post*. February 10, 2015, accessed November 17, 2015, https://www.washingtonpost.com/news/post-nation/wp/2015/02/10/even-more-black-people-were-lynched-in-the-u-s-than-previously-thought-study-finds/.

Brundage, W. Fitzhugh. *Lynching in the New South: Georgia and Virginia*, 1880-1930. Urbana: University of Illinois Press, 1993.

Equal Justice Initiative, "Lynching in America: Confronting the Legacy of Racial Terror," 3. http://www.eji.org/files/EJI%20Lynching%20in%20America%20SUMMARY.pdf.

Foner, Eric. *Reconstruction: America's Unfinished Revolution*, 1863-1877. New York: Harper Perennial, 2014.

Granade, Ray. "Violence: An Instrument of Policy in Reconstruction Alabama," *Alabama Historical Quarterly* 30, no 3., 1968.

Parsons, Elaine Frantz. "Midnight Rangers: Costume and Performance in the Reconstruction-Era Ku Klux Klan," *Journal of American History* 92, no. 3, 2005.

Rable, George. *But There Was No Peace: The Role of Reconstruction Violence in the Politics of Reconstruction*. Athens: University of Georgia Press, 2007.

Report of the Joint Select Committee to Inquire into the Condition of Affairs in the Late Insurrectionary States. Washington: Government Printing Office, 1872.

Robertson, Campbell. "History of Lynchings in the South Documents Nearly 4,000 Names," *The New York Times*, February 10, 2015, accessed November 17, 2015, http://www.nytimes.com/2015/02/10/us/history-of-lynchings-in-the-south-documents-nearly-4000-names.html.

Rosen, Hannah. *Terror in the Heart of Freedom: Citizenship, Sexual Violence, and the Meaning of Race in the Postemancipation South*. Chapel Hill: The University of North Carolina Press, 2009.

Trelease, Ala. *White Terror: The Ku Klux Klan Conspiracy and Southern Reconstruction*. Baton Rouge: Louisiana State University Press, 1995.

Vandal, Giles. "The Policy of Violence in Caddo Parish, 1865-1884," *Louisiana History: The Journal of the Louisiana Historical Association* 32, no. 2, 1991.

Waldrep, Christopher. *The Many Faces of Judge Lynch: Extralegal Violence and Punishment in America*. New York: Palgrave Macmillan, 2002.